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09/747,204	12/21/2000	Michael Wilson	003801.P009	1071

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EXAMINER
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PATEL, JAGDISH

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/747,204

**Applicant(s)**

WILSON, MICHAEL

**Examiner**

JAGDISH PATEL

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-30 and 32-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-30 and 32-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. This communication is in response to amendment filed 6/2/2005. Note that the amendment was filed in response to a final action mailed 2/23/2005. In that office action allowability was indicated for dependent claims 5-7, 13, 31-36 and 39 if the claims were written in independent form. However, upon further consideration these claims have been rejected over newly found prior art. The examiner regrets any inconvenience to the applicant as a result of this action.

### Response to Amendment

2. This office action is a non-final action and in response to the after final amendment received 6/2/2005 .

3. Claims 1-4, 6-30 and 32-80 are pending. New claims 53-80 have been added.

### *Claim Rejections - 35 USC § 103*

4. Claims 1-4, 6-14, 26-30, 37-38, 40 and 52-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barzilai et al. (US 6,012,045) (hereafter Barzilai) and further in view of Knight (US 6,515, 681). (hereafter Knight)

As per claim 1, Barzilai discloses a computer-implemented-method of communicating administrative information related to the monitoring of a network-based auction facility the method including:

Generating an administrative note pertaining to an administrator-selected aspect of an on-line auction facilitated by the network-based auction facility;

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associating the administrative note with the administrator-selected aspect of the on-line auction;

(see Figures 5 and 7, an exemplary note is the automobile store (see col. 10 L 34-52) shown in Figure 5 which pertains to products displayed for sale or auction);

displaying a note indicator on a display unit of a network device to indicate an association of the administrative note with the administrator-selected aspect of the on-line auction when displaying information concerning the administrator-selected aspect on the display unit of the network device.

(see col. 10 L 34-52, note indicators are icons or graphical indicators, which would allow the user to browse through the merchandising show room and select one or more items and potentially bid for the purchase).

(Alternatively, claim limitations are also analyzed in similar manner to show that Figure 7 would also meet the aforementioned limitations as described in col. 17 L 56- col. 18 L 46).

Barzilai fails to teach, however, Knight, in the same field of endeavor teaches that administrative note (herein interpreted as any textual or graphic description, comment or communication as per specification para [0022]) includes type information identifying note as a first type of predetermined set of administrative note types (see col. 19 L 43- end “message/data extraction, note that by applying data filters based on “specific subject matter” of the message board creates administrative note of a first type (such as pertaining to financial community or medical community). Furthermore a predetermined set of note types (additional subjects) can be setup).

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It would have been obvious to one of ordinary skill in the art at the time of invention to generate administrative note which includes information identifying the note as being of a first type of predetermined set of administrative note types because by providing the type information identifying the note as being of a specific type would enable a user of the method to easily browse through the notes, undertake complex search and obtain notes relevant to a specific type without applying a complex query structure. having note type from a predetermined note types would also improve efficiency of the network-based auction facility because of same reasons.

Claim 2. wherein the administrator-selected aspect comprises a user of the network-based auction facility.

(see Figure 7 and col. 17 L 56- col. 18 L 46)

Claim 3. wherein the administrator-selected aspect comprises an item offered for auction via the network-based auction facility.

(see Figure 5 and relevant analysis at col. 10 L 34-52)

Claim 4. The method of claim 1 including associating the administrative note with multiple administrator-selected aspects of the on-line auction.

(the merchandise show room and the store displays are associated with display and bid and purchase (auction) of the merchandise, see Fig. 5 and 7 descriptions).

Claim 6: Barzilai fails to disclose, however, Knight, in the same field of endeavor teaches that administrative note (herein interpreted as any textual or graphic description, comment or communication as per specification para [0022]) includes providing a menu of the predetermined set of administrative note types for user selection.

It would have been obvious to one of ordinary skill in the art at the time of invention to provide a menu of the predetermined set of administrative note types for user selection

because would enable a user of the method to easily browse through the notes, undertake complex search and obtain notes relevant to a specific type without applying a complex query structure. having note type from a predetermined note types would also improve efficiency of the network-based auction facility because of same reasons.

Claim 7. wherein the type information indicates a reason for generation the administrative note (see Knight, col. 19 L 43-end, data filters). See motivation statement of claim 6.

Claim 8. wherein generating the administrative note includes providing a user interface via which an administrator of the network-based auction facility is prompted to identify the administrator selected aspect of the on-line auction.

(see Figures 5 and 10, shows user interface by an administrator of the auction facility is prompted is prompted to identify the administrator selected aspect of the on-line auction as discussed in prior claim analysis)

Claim 9. The method of claim 8 wherein the administrator-selected aspect comprises a user and the user interface prompts the administrator to input a user identifier.

(see Figures 5 and 10 in view of Figure 3 and L 17-60, see membership DB Screen)

Claim 10. The method of claim 8 wherein the administrator-selected aspect comprises an item offered for auction via the network-based auction facility and the user interface prompts the administrator to input an item identifier.

(see Figure 5 and description of Figure 5)

Claim 11. wherein generating the administrative note includes calling a note function from any one of a plurality of administrative functions implemented by the network-based auction facility.

(see Figure 7, MBR data, MBR History, Rules etc.)

Claim 12. the note function comprises an API (inherent to Figure 7 which is built upon an application interface).

Claim 13. Barzilai fails to disclose, however, Knight, in the same field of endeavor teaches displaying a note indicator includes calling a note function that searches a plurality of notes ..(see Knight Fig. 3b and col. 12 L 61+ and col. 13 L 29).

It would have been obvious to one of ordinary skill in the art at the time of invention to displaying a note indicator includes calling a note function that searches a plurality of notes

because would enable a user of the method to easily browse through the notes, undertake complex search and obtain notes relevant to a specific type without applying a complex query structure, having note type from a predetermined note types would also improve efficiency of the network-based auction facility because of same reasons.

Claim 14. wherein displaying a note indicator comprises displaying a graphic icon adjacent a text identifier for the administrator-selected aspect.

(see Figure 5 and description of Figure 5, text identifier is next to icons).

Claim 26 is analyzed per respective method claim 1.

Claims 27-30 have been analyzed per respective method claims 1-4.

claim 37 is analyzed as per claim 11.

Claim 38. note function ..accessed via an API (inherent to Figure 7 which is built upon an application interface).

Claim 40 is analyzed as per respective method claim 14.

All limitations of System claim 52 have been analyzed per respective method claim 1.

Claim 53: refer to analysis of claim 13.

Claim 54: refer to analysis of claim 9.

Claim 55: refer to analysis of claim 3.

Claim 56: refer to analysis of claim 4.

Claim 57: refer to claim 1 analysis in reference to first type of a predetermined set of administrative note types.

Claims 58-66: refer to analysis of claims 6-14 respectively.

Claims 66-78: corresponds to method claims 53-65 respectively and have been analyzed accordingly.

Product claim 79 and system claim 80 correspond to method claim 53 and have been accordingly analyzed.



5. **Claims 15-25, 27-30, 32-51, 66-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight.**

Per claim 15, Knight discloses a computer implemented method of communicating administrative information concerning a user which method comprises:

Automatically invoking a note creation function from a plurality of administrative applications ..(see note creating function is interface 100 shown in Fig. 1A and 1B, additionally, Figure 4 shows a posting system which are invokes via software extraction/posting robots running over a server);

Generating an administrative note via the note creation function, (refer to message board system where inherently administrative notes (messages) are generated as part of discussion of a specific subject matter),

Where the note creation function associates the administrative note with the user as identified by an administrator..(see col. 20 L 35-40, preferred subscriber are given weighted voice in the decision affecting the online community inherently require associating the administrative note with the respective user),

Storing the administrative note in a database (refer to Fig. 4, "content collection and posting system).

Knight fails to teach that the method of communicating the administrative information concerning a user concerns a user of a network based auction facility. However, the examiner points out that limitation recites the aforementioned limitation only in terms of intended use ("user of a network-based auction facility".. and "administrator of the network-based auction facility" .) This intended use of the claimed invention must result in a structural difference

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between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Based upon the foregoing analysis it is asserted that the method of communicating information is also applicable to a net-worked based auction facility and therefore meets the claim.

Claim 16: refer to claim 7 analysis.

Claim 17: presenting ..the predetermined note types for selection by the administrator, each administrative note type providing a reason for creation of the administrative note (refer to Fig. 3b and relevant discussion at col. 12 L 61- col. 13 L 62 which describes the predetermined note types as message subject matter area. Inherently, each of the note types is created for facilitating discussion of topic concerning relevant topics).

Claim 18: prompting the user, via the note creating interface, for any one of a group of information items to be included within the administrative note concerning the user including a user identifier and whether the user is to be suspended (refer to Figure 3b and col. 20 L 35-40).

Claims 19-23: searching via a note search function, plurality of notes based on user information (refer to discussion of query function at col. 13 L 29-45 in context of Fig. 3b).

Regarding claim 24, Knight fails to teach that the note search function requires verification of the identity of the verification of the administrator before permitting search.

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However, Official Notice is taken that verification of users to permit access to software applications (such as search engines) is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have included verification of the identity of the administrator in Knight in order that only authorized user is allow access to the search application.

Regarding claim 25, Knight fails to teach purging the administrative note after an indicated time period.

However, Official Notice is taken that purging posted messages on discussion board is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have included this feature in Knight in order that the number of notes on the system remains most up to date and relevant to the useful topics and that amount of information does not burden the resources.

Per Claims 27-30, and 32-40 Knight discloses a system to communicate information related to the monitoring of a network-based auction facility, the system includes:

A computer device (see Fig. 2, server 220),

A note creating application, executing on the computing device to facilitate creation of an administrative note..(see Fig. 2, content extract/posting robots, 230),

A note displaying application, executing on the computing device, ..(see Fig. 2, Interaction Window 250).

Although, the system claim recites functionality of the system elements, such functionality is only recited as intended use of the respective system elements. For example, the intended function of the “note creation application executing on the computing device” is recited as “to facilitate creation of an administrative note”. This intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

The intended use recitation of the claim elements, in the instant claim does not result in a structural difference between the claimed invention and the Knight patent reference and therefore the claimed invention is not patentably distinguished from the prior art.

The foregoing analysis also applies to dependent claims 28, 29, 33, 35 and 36.

Claim 30: the note creation application associates the administrative note with multiple administrator-selected aspects of the on-line auction (noting that the On-line auction is recited as field of use, Knight discloses multiple administrator-selected aspects as multiple a plurality of subject of interests such as financial, medical etc., see col. 19, description of Fig. 4).

Claim 32: the note displaying application generates a menu of the predetermined set of administrative note types for user selection. (refer to Figure 3b).

Claim 34: user interface (refer to Figure 3B).

Claim 37: the note creation application includes a note function of a plurality of administrative functions implemented by the network-based auction facility. (col. 19-20 refer to “content Collection and Posting System as referenced to Fig. 4).

Claim 38: wherein the note function is accessed via an Application Program Interface (API). (see Figure 3b).

Claim 39. including a note search application that searches a plurality of administrative notes to locate an administrative note based on the administrator-selected aspect. (see search robot 230, and related description)

Claim 40. wherein the note displaying application displays a graphic icon adjacent a text identifier for the administrator-selected aspect. (see Figure 3c).

Claims 41-51 have been analyzed per respective method claims 15-25.

Per claim 66: Knight discloses a system to communicate information related to the monitoring of a network-based auction facility, the system includes:

computer device (see Fig. 2, server 220),

A note creating application, executing on the computing device to facilitate creation of an administrative note..(see Fig. 2, content extract/posting robots, 230),

A note displaying application, executing on the computing device, ..(see Fig. 2, Interaction Window 250).

A note search application to search a plurality of administrative notes and to locate the administrative note based on the administrator-selected aspect (Fig. 2 customized search robot 232, see also relevant description at col. 9 L 27-40).

Although, the system claim recites functionality of the system elements, such functionality is only recited as intended use of the respective system elements. For example, the intended function of the “note creation application executing on the computing device” is recited as “to facilitate creation of an administrative note”. This intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

The intended use recitation of the claim elements, in the instant claim does not result in a structural difference between the claimed invention and the Knight patent reference and therefore the claimed invention is not patentably distinguished from the prior art.

Claims 67-78: refer to analysis of claims 28-40 respectively.

Product claim 79 and system claim 80 correspond to method claim 53 and have been accordingly analyzed.

### ***Conclusion***

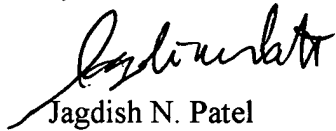
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-600PM M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3624)

8/10/05